

At the meeting of the Public Service Commission of the State of Montana held at the Commission's Offices in Helena, Montana, on Tuesday, September 28, 2004, at 9:30 a.m. the following members were present:

Thomas J. Schneider, Vice Chairman  
Matt Brainard, Commissioner  
Greg Jergeson, Commissioner  
Jay Stovall, Commissioner

Chairman Rowe left his written votes with the Commission Secretary.

APPEARANCE

Eric Eck  
Utility Division

(380) In the matter of D2004.8.137: On August 25, 2004 NorthWestern Corporation filed an application seeking authority to issue warrants and up to an additional 7.571 million shares of common stock. The issuance of the warrants and additional common stock serves two purposes (1) to implement the Harbert Settlement and (2) implement employee incentive plans by the reorganized NorthWestern's new Board of Directors post-reorganization.

Commissioner Jergeson moved to approve the application with the edits indicated by staff and incorporating Commission's comments. Commissioner Brainard seconded the motion, which passed unanimously.

APPEARANCE

Will Rosquist  
Utility Division

(381) In the matter of N2004.9.150: On September 15, 2004, the City of Great Falls filed an application for a license to offer and sell retail electricity supply services in NorthWestern Energy's service territory.

Commissioner Stovall moved to approve the license for the City of Great Falls. Commissioner Jergeson seconded the motion, which passed unanimously.

APPEARANCE

Wayne Budt, Administrator  
Transportation/Centralized Services Division

(382) In the matter of TN2233: Helena Unlimited, Inc. dba Last Chance Tours, Helena, Montana requests permission to suspend PSC No. 2516 for a six month period, October 1, 2004 to April 1, 2005.

Commissioner Jergeson moved to grant the suspension for the six-month period. Commissioner Stovall seconded the motion, which passed unanimously.

(383) In the matter of TN2234: U.G., Inc. dba Capitol Taxi, Helena, Montana requests permission to continue the \$.25 per fare fuel surcharge applicable on their passenger operations within Helena and a 50 mile radius for an additional 90 day period.

Commissioner Stovall moved to approve the \$.25 surcharge. Commissioner Brainard seconded the motion, which passed unanimously.

(384) In the matter of the approval of Commission Minutes for the week of September 20, 2004.

Commissioner Jergeson moved to approve the Commission Minutes for the week of September 20, 2004. Commissioner Brainard seconded the motion, which passed unanimously.

APPEARANCE

Martin Jacobson, Legal Division

Kim Moran, Utility Division

(385) In the matter of the Commission's discussion of West Yellowstone EWM, general rate case –Docket No. D2004.2.16:

Commissioner Brainard moved to instruct staff to draft a final order accepting the stipulation. Commissioner Stovall seconded the motion, which passed unanimously.

APPEARANCE

Leroy Beeby

Utility Division

(386) In the matter of the Commission's discussion of Ronan Telephone failure to file 2003 annual report timely or notify the Public Service Commission of late filing.

Commissioner Brainard moved to suspend all activity on Ronan dockets and matters until the annual report is filed. Commissioner Schneider seconded the motion, which passed 3-2. Commissioner Stovall voted nay. The vote was left open for Commissioner Rowe, who later voted nay.

APPEARANCE

Monica Tranel, Legal Division

Gary Duncan, Utility Division

(387) In the matter of the Commission's discussion of Interconnection agreements between

Citizens, AT&T Wireless, Qwest Corporation, Qwest Communications Corporation, CenturyTel, Avika, SBC, Talk America, MCI, Granite Communications, and New Access- Docket Nos. D2004.7.103, D2004.7.108, D2004.8.126, D2004.9.148, D2004.9.149, D2004.7.119, D2004.8.140, and 2004.9.147:

Commissioner Brainard moved to approve the interconnection agreement in Docket No. D2004.7.108 with respect to Qwest and Qwest Communications Corporation. Commissioner Stovall seconded the motion, which passed unanimously.

Commissioner Brainard moved to approve the interconnection agreement between Citizens and AT&T Wireless in Docket No. D2004.7.103 with the additional requirements of section seven added by staff. Commissioner Jergeson seconded the motion, which passed unanimously.

Commissioner Jergeson moved to approve the interconnection agreement between Avika and CenturyTel in Docket No. D2004.8.126 subject to the agreement complying with Montana Law and Commission disconnect language in section 8a. Commissioner Brainard seconded the motion, which passed unanimously.

APPEARANCE

Al Brogan  
Legal Division

(388) In the matter of the Commission's discussion of Havre Pipeline Co. application to increase rates and charges for Direct Farm Tap customers- Docket No. D2004.8.128:

Commissioner Jergeson moved to approve late intervention by Montana Consumer Counsel in the Havre Pipeline Docket No. D2004.8.128: Commissioner Stovall seconded the motion, which passed unanimously.

APPEARANCE

Robin McHugh, Al Brogan  
Legal Division

(389) In the matter of the Commission's discussion of NorthWestern Energy Bankruptcy placeholder to report on any matters related to the bankruptcy, specifically whether to issue a press release, authorize the council to represent to the court that the Public Service Commission supports the planned confirmation.

Commissioner Jergeson moved to direct outside counsel to appear before the court and indicate that the Commission has no objection for approval of the confirmation plan and to advise the court of the Commission's support for the stipulation entered into between the parties. Commissioner Brainard seconded the motion, which passed 4-0. Commissioner Rowe did not leave a vote on this matter.

APPEARANCE

Kate Whitney, Administrator Utility Division

Marla Larson, Utility Division

(390) In the matter of the Commission's discussion of staff travel.

Commissioner Brainard moved to approve out-of-state travel for Marla Larson to the CREPC October 19-21 meeting in Vancouver, B.C. Commissioner Stovall seconded the motion, which passed unanimously.

Commissioner Stovall moved to approve the Commission paying for four nights lodging for Monica Tranel to attend the Intercarrier workshop and Broadband Deployment Conference in Washington, D.C. Commissioner Brainard seconded the motion, which passed unanimously.

There being no further business to come before the Commission the meeting was adjourned.

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BOB ROWE, Chairman

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THOMAS J. SCHNEIDER, Vice Chairman

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MATT BRAINARD, Commissioner

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GREG JERGESON, Commissioner

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JAY STOVALL, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

At the meeting of the Public Service Commission of the State of Montana held at the Commission's Offices in Helena, Montana, on Friday, October 01, 2004, at 9:30 a.m. the following members were present:

Thomas J. Schneider, Vice Chairman  
Greg Jergeson, Commissioner  
Matt Brainard, Commissioner- via telephone

APPEARANCE

Monica Tranel, Legal Division  
Kate Whitney, Administrator Utility Division

(391) In the matter of the Commission's discussion of comments on the FCC NPRM on Final Unbundling of Rules.

Commissioner Jergeson moved to delete the language in section II (a) and re-number the subsequent section II (b). Commissioner Brainard seconded the motion, which passed with a vote of 3-1. The vote was left open for Commissioner Rowe, who dissented in part (attached).

Commissioner Jergeson moved to adopt and file comments as revised this morning, specifically II (a). Commissioner Brainard seconded the motion, which passed with a vote of 3-1. The vote was left open for Commissioner Rowe, who dissented in part (attached).

There being no further business to come before the Commission the meeting was adjourned.

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BOB ROWE, Chairman

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THOMAS J. SCHNEIDER, Vice Chairman

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MATT BRAINARD, Commissioner

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GREG JERGESON, Commissioner

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JAY STOVALL, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

Done and dated this 3<sup>rd</sup> day of October 2004, by a vote of 3 to 1. Commissioner Rowe dissenting.

Section II. A. exceeds direction from the MPSC's previous work session, which was to describe the MPSC proceeding, and instead asserts MPSC "findings" (sic). The MPSC's Notice and Opportunity to Comment, dated September 28, 2004, sought comment concerning the matters which the "findings" purport to determine. In particular, we know very little about wholesale switching in Montana. In the meantime, the record and parties' actions in the MPSC proceeding speak for themselves.

I also dissent from section II.C., which again asserts the MPSC's potentially destructive position that voluntary commercial agreements concerning non-section 251 elements should in all cases be subject to complete section 252 requirements. This position "makes the worst of a bad situation" by very effectively discouraging voluntary negotiations. As stated in my dissent in the MPSC order attached to the MPSC's comments to the FCC, the MPSC should encourage voluntary negotiations, resulting in transparent agreements, to which non-parties may opt in. The only "certitude" (comments, page 6) the MPSC's approach may provide to wholesale customers is the certitude that there will be no or fewer negotiations.